IN THE HIGH COURT OF JUDCIATE FOR RAJASTHAN AT AT JODHPUR

O R D E R

Jogender Singh vs. State of Rajasthan

S.B.CR.MISC. PETITION NO.808/2006
against the order dt. 12.6.2006 passed by Additional Sessions Judge, Rajgarh (Churu) in Sessions Case No.18/2005.

Date of Order : August 03, 2006

P R E S E N T

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Kishan Singh, for the petitioner.
Mr.Ashok Upadhyaya, P.P.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 12.6.2006 passed by the Additional Sessions Judge, Rajgarh (for short 'the trial court' hereinafter) in Sessions Case No.18/2005, whereby the trial court allowed the application filed by the prosecution under section 319 Cr.P.C. and arraigned the present petitioner as an accused sought to be tried together with the accused facing trial.

It is contended by learned counsel for the petitioner that after investigation, the police did not find involvement of the present petitioner and, therefore, no challan was filed against him. Thereafter, the matter was committed to the Court of Sessions. At that stage also, the petitioner was not implicated as an accused even after the statements of the prosecution witnesses namely injured Dharmveer Singh PW.1, Usha PW.2 and Mahveer Singh PW.3. The trial court allowed the application under section 319 Cr.P.C. and arraigned the petitioner as an accused sought to be tried together with the accused facing trial in the case.

Section 319 Cr.P.C. provides that where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

In the instant case, from the statements of three witnesses noticed above examined by the trial court, the trial court prima facie came to the conclusion that apart from the accused facing trial, the

present petitioner, who is not the accused in the case has also committed the offence and, therefore, he was arraigned as an accused in the case. From perusal of the order impugned, it appears that the first information report was lodged on the "Parcha Bayan" of injured Dharmveer Singh. In the "Parcha Bayan", injured Dharmveer Singh assigned the role to the petitioner that it was the present petitioner, who caught hold the injured and the co-accused inflicted knife blows. This clearly shows right from the "Parcha Bayan that the prosecution is consistent with showing the involvement of the petitioner and, therefore, the trial court was justified in allowing the application under section 319 Cr.P.C. and arraigning the present petitioner as an accused. Lastly it is contended by the learned counsel for the petitioner that the non-bailable warrant issued against the petitioner may be converted into bailable warrant.

Keeping in view the fact that the offence is under section 307/34 I.P.C., in my view, the non-bailable warrant issued against the petitioner cannot be said to be faulty. In the circumstances, therefore, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any Court.

The petition has no merit. Accordingly, the misc. petition is dismissed.

[H.R.PANWAR],J.

m.asif/-